

Workforce Investment Act Waiver Request

The waiver request which follows was signed by Governor Frank O'Bannon and submitted to the United States Department of Labor (DOL) on November 4, 1999. All written comments that were received on the draft waiver were included as attachments to the request.

The draft included a waiver to exclude persons who transfer to a WIA program in another Workforce Service Area (WSA) from performance measurement in the area from which they were transferred. This waiver was not included in the final because we determined that we can accomplish this at DWD as long as the receiving WSA accepts the transfer. Similarly, the final document does not include a waiver for eliminating terminations due to death or illness from performance because WIA reporting instructions now allow us to do so.

The draft waiver requesting a change to the definition of a one-stop partner based on level of participation was also deleted from the final. We agreed with some of the comments received that partners who are "peripheral" to the system need to be required to participate as the law envisioned rather than excused from participation.

If DOL grants a waiver, it does not necessarily mean the state will implement that waiver. Waivers provide the state with increased flexibility to meet state policy objectives. As an example, DOL granted Indiana a waiver under JTPA for program year 1998 for the administrative cost limit which the state did not implement, but it afforded us flexibility in closing out JTPA for an early implementation of the Workforce Investment Act.

Additional waivers may be submitted in the future if the need arises. The same public review and comment process will be used. Please direct any questions about the waivers to nbabich@dwd.state.in.us.

STATE OF INDIANA

Workforce Investment Act Waiver Request for Program Years 1999-2004

Section 1: State and Local Goals

The Department of Workforce Development (DWD) was established by Executive Order in 1991, bringing together into a single state agency the operational departments of the Employment Service, Unemployment Insurance, Job Training Partnership Act, Workforce Literacy, and Vocational and Technical Education. The General Assembly reaffirmed the establishment of DWD with passage of legislation in 1994, defining DWD as "the sole agency to plan, coordinate, implement, monitor, and make recommendations regarding initiatives designed to prepare Indiana's workforce for effective participation in the competitive and global economy" (I.C. 22-4.1-2-1). As the agency with primary responsibility for workforce development in Indiana, DWD plays a lead role in preparing businesses and workers to meet the demands of the 21st century.

The national and state economies have been changing throughout the existence of DWD and its predecessor agencies. High unemployment characterized the years during which much of the legislation which funds DWD was passed. Lately, however, Indiana has been enjoying an unprecedented low unemployment rate. Policies established during high unemployment have been re-examined. Our competitiveness in the next decade and beyond will be determined by our ability to sustain a rising standard of living for Hoosiers. We must look beyond labor exchange and pre-hire worker preparation and concentrate on the skill needs of its 3 million incumbent workers. Although disadvantaged Hoosiers, dislocated workers, and students will continue to be targeted for skill development, we will increasingly turn our attention to the incumbent workforce, with the objectives of increasing skills and productivity, increasing private and personal investments in lifelong learning, and increasing productivity of Indiana's businesses.

The Indiana Department of Workforce Development (DWD) is committed to building a user-friendly system that will help Hoosiers bridge the skills gap and maximize their earning potential. The system will be sensitive to the changing demands of the workplace and include employers as partners in the design of skills standards and building of the future workforce. No single program or agency can address this task alone. DWD will work closely with the Department of Education, Department of Commerce, Family and Social Services Administration, organized labor, the private sector, local partners (including schools and Workforce Investment Boards), and others to ensure all our customers (students, incumbent workers, job seekers, and employers) have access to the resources they need for lifelong learning.

VISION

Indiana will have the most qualified high performance workers in the nation and the most user-friendly public-private system for customers (students, workers, and employers) to access the resources they need for lifelong learning and training.

MISSION

Lifelong Learning for Hoosiers.

AGENCY OBJECTIVES

Quantified objectives for each area below may be found in the appendix.

- **Development of the Incumbent Workforce**

The majority of individuals who will be working in the year 2010 are working today, and many do not take advantage of lifelong learning opportunities. If we are to ensure Indiana's competitive position and future economic growth, we must help our current workers develop the skills they need to prosper in the years ahead.

- **Development of the Future and Potential Workforce**

Employers are experiencing increased difficulties recruiting qualified workers. A low unemployment rate means less labor availability. Those who are available for entry level work may lack the skills necessary to succeed. Large numbers of skilled workers in many industries are nearing retirement age. DWD will develop the future workforce through school-to-work initiatives, including technical education, alternative education programs for students unable to benefit from traditional school environments, and work-based learning opportunities for *all* students. The potential workforce includes public assistance recipients, individuals with disabilities, underemployed individuals looking to move into higher skilled careers, and graduates of postsecondary education who may leave the state.

DWD has many partners in this effort, including Family and Social Services Administration, Department of Education, Department of Commerce, the Professional Standards Board, and the Commission on Higher Education.

- **Increased Effectiveness and Efficiency**

In addition to measuring our progress on achieving strategic goals, DWD will increase its effectiveness and efficiency. Many of DWD's funding sources have either declined or held steady over the past several years (holding steady while the cost of doing business

increases is equivalent to a funding decrease), yet we continue to set challenging goals for ourselves without increasing staff numbers.

The number of labor market intermediaries is increasing. Public entities add value by

providing access to quality information. One-stop centers will become community resource centers whose value to the public will be demonstrated by increased usage. Work-centered “demand side strategies” reflect the growing consensus that the workforce system needs to move beyond job placement to include on-going skill development and career progression.

The waivers sought by Indiana support will help us meet our objectives. The essential principles against which workgroup members weighed each request are:

- **Increased access to services.**
A comprehensive workforce development system must be able to address the needs of a broad spectrum of users. Universal access is one of the key principles of the one-stop system.
- **Development of a seamless, coherent workforce development system.**
A collection of programs gathered under one roof does not make a "system." Customers must be able to flow easily between funding sources and services without disruption of their lifelong learning plan. Case managers should be able to assemble services on behalf of an individual without having to juggle conflicting eligibility guides, allowable services, and outcome expectations based on the customer's demographics rather than his/her needs.
- **Improved accountability.**
Performance measures should reflect the quality of training received and the increase in skills and earning power of the individual. There are many other factors unrelated to service interventions that are allowed to impact measures of effectiveness, thus giving an inaccurate picture of the system.
- **Skill building for incumbent workers.**
A job placement should not be the end of learning. A workforce development system must be able to help workers maximize their full potential.
- **Long term retention in employment.**
Particularly for welfare clients, the workforce development system needs to ensure that participants are prepared for permanent self-sufficiency
- **Customer choice and empowerment.**
Customer choice is another key principle of the Workforce Investment Act. In Indiana, we have added "empowerment." Through vouchers, consumer reports, assessment, counseling, and other services, we want to put as much information in the hands of the customer as possible to enable him/her to make intelligent choices about the future.
- **Smaller/smarter government.**
Indiana is committed to using technology to improve the efficiency of state operations. Additionally, we want to minimize unnecessary administrative actions that absorb resources without adding value or improving outcomes.

- **Improved coordination.**
Fragmentation may be reduced if programs and resources are allowed to support common goals. Many of our waiver requests target barriers that keep service providers from collaborating on behalf of customers.
- **Demand-side strategies/work first.**
In today's economy we no longer have time to train participants for two years before getting them a job. The jobs are there. The demand for workers is there. Most people learn better on a job than in a classroom. We must remove the barriers that keep us from placing participants into the workplace and then continuing their skill building post-hire.

Section II: Summary of Waiver Requests

Youth, Dislocated Worker, and Adult Program Waivers

1. Waiver:

Permit exclusion of Social Security Disability Income (SSDI) as Family Income.

The Department of Labor granted a four-year waiver effective from the date of the August 4, 1997 waiver approval letter. Indiana proposes to retain this waiver through program year 2004. This waiver will aid in youth eligibility determinations as well as establishing priorities among adults, when appropriate.

2. Waiver:

Exclude work-based learning wages from the Definition of Family Income.

Objective:

Development of the future workforce.

Principles:

Increased access; improved coordination.

- Barrier: Some youth may be excluded from eligibility for WIA due to wages earned under paid work-based learning activities through school-to-work programs. Access to services is compromised, as is coordination between WIA and school-to-work activities funded by schools.

There are two specific goals for this waiver. The first goal is to increase access to WIA youth programs. Currently, youth who elect to participate in a high school's work-based learning program may experience problems in becoming eligible for a WIA funded youth program since any wages are counted as income. Since work-based learning is really a training program at the high school level, counting these wages as income makes no real sense. All other eligibility criteria for youth would be met. The second goal of this waiver will be to facilitate coordination with state and local school to work efforts. Work-based learning is an effective school to work activity for many young people. Approval of this waiver will allow these two programs to work more closely together.

- Specific Statutory/Regulatory Requirement to be Waived:

Section 101(25).

- Expected Benefit of Waiver:

The programmatic outcome desired from this waiver is to increase the quality of learning opportunities for young people engaged in school to work activities. Removal of a barrier to closer coordination of work-based learning programs and

WIA youth programs at the local level will accomplish this. The primary impact will be on the young people that might have been denied access to WIA youth services because of their participation in a work-based learning at the high school level. If this waiver is approved, these young people will be better prepared for work or continued education after high school.

3. Waiver:

Utilize the 25% rapid response set-aside for supplementing funds for intensive services and training in local areas.

Objective:

Development of the incumbent workforce.

Principle:

Increased access to services.

- Barrier: Limitations on the use of the 25% set aside for rapid response restricts how the state may respond to lay-offs.

Local formula dislocated worker allocations may be insufficient to meet the need when a large lay-off occurs. The Governor's 25% setaside for rapid response is limited to the activities described in 665.310 and 665.320 of the interim regulations. There may be a time delay in obtaining National Emergency Grant (NEG) funds to pay for more intensive registered services. Greater flexibility in the use of the 25% rapid response set-aside would ensure the state can utilize its resources as necessary to meet the needs of our customers. Indiana proposes that permissible uses of the 25% setaside include all allowable dislocated worker services, although the majority will be spent on rapid response and early intervention activities and our state policy is to require local entities to apply for NEG whenever appropriate. Many of Indiana's low-skill, high wage manufacturing workers will not be able to replace their prior wages with rapid response and core services alone. Skill training will be necessary to help them achieve an income as close as possible to their pre-layoff wage.

- Specific Statutory/Regulatory Requirement to be Waived:

Section 101(38) and 665.310 and 665.320 of the interim regulations.

- Expected Benefit of Waiver:

Increased flexibility of the state to respond to its citizens.

4. Waiver:

Change the definition of "school dropout" to include individuals enrolled in alternative education.

Objective:

Development of the future and potential workforce.

Principle:

Increased access to services; improved coordination.

- Barrier: students in alternative education who are no longer a part of the mainstream K-12 education system may not be served as out of school youth, thus limiting their access to WIA services.

Indiana has a history of coordination with school-to-work programs through innovative uses of the JTPA 8% setaside. Relationships have been established with schools that benefit youth who would otherwise enter the second chance systems. Prevention is always preferable to treatment at the "back end." Forcing these youth to wait until they entirely drop out of school may cause them to fall through the proverbial cracks. Youth in alternative education are not "in school" in the same way other youth are. They have been placed there because of their unique risk factors and retention is a daily challenge. Even upon graduation, their risk factors do not end. Allowing WIA entities to initiate a relationship with the student while enrolled in alternative education not only provides the additional resources needed to provide quality work-based learning and mentoring for these youth, but also sets up a continuity of service between in and out of school experiences. We do not believe that this waiver request represents a change in eligibility criteria. It is only a waiver to the definition of school dropout. Eligibility will still be tied to the criteria of "school dropout" for out of school youth.

- Specific Statutory/Regulatory Requirement to be Waived:

Section 101(39) and 664.310

- Expected Benefit of Waiver:

Increased numbers of high-risk youth who may be served through WIA resources at an earlier point in their development. Continuity of care for some of the neediest members of the youth population.

5. Waiver:

Permit Individual Training Accounts (ITAs) to be used for out of school youth participants.

Objective:

Development of the future workforce.

Principles:

Increased efficiency and customer choice.

- Barrier: ITAs are not permitted for youth participants

Youth may only utilize an ITA if they are co-registered in the adult program. Co-registration produces unnecessary paperwork. The allowable service is the same; requiring additional registration has no value to either the program or the customer.

- Specific Statutory/Regulatory Requirement to be Waived:

664.510.

- Expected Benefit of Waiver:

One-stop operators will be able to provide appropriate services to out of school youth who can benefit from such services without having to register the youth in the adult program and track resources separately for each funding stream.

Administrative Waivers

1. Waiver:

Raise the limit for administrative costs for the program.

Objective:

Increased effectiveness.

Principle:

Development of seamless, coherent system.

- Barrier: the administrative cost limitation has been demonstrated to be unrealistic.

The Department of Labor is currently reviewing the records of 10 entities around the country comparing their administrative costs under JTPA with the new definition of administration contained in the interim regulations. The Northeast Indiana Workforce Service Area was included in this review. Reviewers concluded that even using the more liberal definition of administration under WIA, 18.57% of the organization's costs would have still been classified as administration. The success of WIA will be largely dependent on the success of the WIBs in carrying out their responsibilities, which are greater than those under JTPA. Developing eligible training provider lists, planning for comprehensive systems that include partner resources, negotiating MOUs, implementing continuous improvement practices, increased reporting requirements, monitoring larger numbers of providers, and other activities must be done *well*, not just in minimal compliance with the law. Additionally, the goal of truly separating WIB staff from service delivery staff will be more difficult to achieve since one staff

person can not perform in two capacities and thus divide how he/she charges time.

Indiana proposes two alternatives:

- a. The administrative cost limit be raised to 15% for all WIBs, and to 20% for WIBs that totally separate board staff from service delivery staff in order to encourage the establishment of independent boards.
- b. The definition of administrative costs be confined to WIB activities, while all activities at the one-stop operator level be defined as program costs. We will pursue a way to provide incentives for independent boards within this option if approved.

- Specific Statutory/Regulatory Requirement to be Waived:

Section 128(b)(4) and 20 CFR 667.210(a)(2) and 667.220(b).

- Expected Benefit of Waiver:

Encouragement to local WIBs to become fully independent of operations and thus provide independent oversight of the system. This will give the boards greater credibility with partners and increase accountability of operations. A larger percentage of administrative dollars will also permit boards to function as Congress intended, thus helping ensure the success of WIA.

2. Waiver:

Utilize state-based performance measures.

Objective:

Increased effectiveness and efficiency.

Principles:

Smaller and smarter government, developing a coherent workforce system.

- Barrier: 18 core measures that are incomprehensible to the general public and policy makers and which drive a very small funding source to manipulate who gets served. Additionally, there are significant problems associated with using UI wage data for accurate outcome data.

Indiana intends to utilize a comprehensive approach to service delivery under the One-Stop philosophy. Rather than restricting our service providers to outcome measurements that are tied to specific funding sources, we propose a broad-based strategy that reflects the overarching goals of our workforce development system. We propose SYSTEM measures, not WIA measures.

There are **three fundamental goals** in Indiana's workforce development system. They are: satisfied customers, increased earnings and increased skills. Our goals for PY '99 are articulated by the following performance objectives:

1) Customer satisfaction of clients and employers (as measured by a survey, and expressed as a percentage of those who rated us above average or excellent. Over half will rate us above average or excellent.)

2) Number of individuals we assist who experience earnings gains (expressed as a hard number and measured by UI wage records. 140,000 assisted by the one-stop system will have earnings gains. Each region will be assigned a part of that based on its relative share of the population. This will be tracked through Indiana's Customer Self-Service System (CS3), because all the partners will be utilizing CS3.

3) Number of individuals we assist who acquire skills credentials (again, a hard number, and measured by recorded attainments of GEDs, Certificates of Technical Achievement, Degrees, diplomas, other recognized credentials. All partners could report into the regional total by whatever tracking mechanism they use. At least 2,000 citizens will have documentable skill increases.

We propose to use the above in place of the USDOL measures for PY 99 and PY 00, or until federal measures can be defined which are accurately measurable and do not drive local strategies which are adverse to our vision or which restrict full service provision to certain individuals.

- Specific Statutory/Regulatory Requirement to be Waived:

20 CFR 667.300(a)

- Expected Benefit of Waiver:

We firmly believe that such measures could give credibility to the public system by the very nature of their ease of understanding and their application across programs. This is recognizable progress in workforce improvement. We are willing to discuss other alternative measures in addition to the state defined system measures.

Section III: Impact of Waivers/Outcomes and Performance Targets

Consistent with the spirit of WIA, DWD will negotiate performance expectations associated with these waivers with DOL.

Section IV: State and Local Workforce Service Areas' Actions to Remove Barriers

Indiana modified policies as necessary to implement waivers in PY 98. For new waivers approved in PY 99, the Department of Workforce Development will examine all state policies and modify them accordingly. This will include policies regarding performance standards, eligibility, cost

reporting, et. al. As evidence of the state's willingness to meet the needs of local entities in designing systems that work, local elected officials have been given the opportunity to propose greater integration of resources at the local level. The State Human Resource Investment Council (Indiana's State Workforce Investment Board) and the state agencies responsible for partner resources have agreed to be maximally flexible and supportive in assisting regions to meet their goals for establishing seamless systems at the local level. The state level Memorandum of Understanding is enclosed.

Section V: Comments Process

The invitation to participate on the waiver workgroup was extended to all members of the state substeering committee (which includes state level representatives from all partner resources), WIB directors, DWD program directors, AFSCME, Unity, the AFL-CIO, and the SHRIC in addition to in-house units of DWD.

The draft waiver document was:

- Posted on the Internet homepage of the Department of Workforce Development. The review period ran the week of 10/04/99. Local news media were made aware of the posting.
- Sent for review and comment to the leaders of the State Senate and House of Representatives, State Steering and Substeering Committees, AFL-CIO, AFSCME, Unity Team, State Human Resource Investment Council, Indiana Association of Rehabilitation Facilities, WIB Directors, WIB Chairs, Chief Elected Officials, Program Directors and Local Office Managers of the Department of Workforce Development, and the Region V office of the Department of Labor.

Notice about the availability of the document on the website and in hard copy at local offices was sent by the WIB Directors to:

- Step Ahead Councils
- Local Planning Councils
- Local Labor Councils
- Local Chambers of Commerce
- Mental Health Agencies
- Rehabilitation Agencies

Section VI: Monitoring

Upon approval of waivers, the Department of Workforce Development will issue a menu of approved waivers from which WIBs may select. DWD is open to negotiation with the Department of Labor to achieve a statewide performance improvement.

Indiana will monitor implementation and impact of the waivers through a combination of reporting from the local level and state oversight and evaluation. Performance measures from the WSAs will be evaluated at least quarterly to determine impact. Through the WSAs' Operations Forum and meetings of the WIB Directors, DWD will seek feedback on use, problems, and successes. The forums will allow sharing of best practices in taking the greatest advantage of opportunities offered by the waivers. DWD will include monitoring of use of the waivers in its routine desk top reviews and on-site monitoring.

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